

CREATION OF NEW SCHOOL DISTRICT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill modifies provisions related to the creation of a new school district.

Highlighted Provisions:

This bill:

- ▶ adds a vote to elect school district board members resulting from the creation of a new school district to the list of special elections that a local political subdivision may call;
- ▶ adds a definition relating to the creation of a new school district;
- ▶ provides a process for certifying the creation of a new school district and establishes the date that the new district is created;
- ▶ clarifies the duties of a new district and the district from which the new district was created with respect to providing educational services;
- ▶ makes exceptions to requirements applicable to a proposal by interlocal agreement participants to create a new school district where the proposal would otherwise geographically isolate an area within a municipality that is served by a separate school district;
- ▶ provides for the election of school district board members of a new school district and of the school district from which the new district was created, and provides for

the terms of those members;

- ▶ establishes a process for allocating the property of an existing school district between a newly created district and the school district from which it was created, including:

- transition teams to represent the new district and the district from which the new district was created; and

- a requirement that disputes about the allocation of property be decided by binding arbitration;

- ▶ shifts from the board of a new school district to the board of the district from which the new district was created the responsibility to continue to levy a tax on property in the new district to pay the new district's proportionate share of bonds issued before the new district was created;

- ▶ prohibits a school district board from issuing bonds approved but not issued before the creation of a new district under certain circumstances;

- ▶ authorizes a mayor or the mayor's designee of a municipality that is partly or entirely within the boundaries of a school district to attend and participate in school board meetings;

- ▶ requires local school boards to give notice of board meetings to the mayor or the mayor's designee of each municipality that is partly or entirely within the boundaries of the school district; and

- ▶ makes technical, conforming, and clarifying changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-203, as last amended by Chapter 211, Laws of Utah 2005

20A-14-201, as last amended by Chapter 233, Laws of Utah 2005
53A-2-104, as last amended by Chapter 183, Laws of Utah 2006
53A-2-105, as last amended by Chapter 183, Laws of Utah 2006
53A-2-117, as enacted by Chapter 234, Laws of Utah 2003
53A-2-118, as last amended by Chapter 183, Laws of Utah 2006
53A-2-118.1, as enacted by Chapter 183, Laws of Utah 2006
53A-2-119, as enacted by Chapter 234, Laws of Utah 2003
53A-2-120, as enacted by Chapter 234, Laws of Utah 2003
53A-2-121, as enacted by Chapter 234, Laws of Utah 2003
53A-3-409, as last amended by Chapter 78, Laws of Utah 1990

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-1-203** is amended to read:

20A-1-203. Calling and purpose of special elections.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or 53A-17a-134;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedure;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed; [or]

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act[:]; or

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election; and

(ii) the purpose for the local special election.

Section 2. Section **20A-14-201** is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Reapportionment.

(1) (a) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1)(a).

(b) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(2) (a) County and municipal legislative bodies shall reapportion district boundaries to meet the population, compactness, and contiguity requirements of this section:

(i) at least once every ten years;

(ii) ~~whenever~~ if a new district is created~~;~~:

(A) within 45 days after the canvass of an election at which voters approve the creation of a new district; and

(B) at least 60 days before the candidate filing deadline for a school board election;

(iii) whenever districts are consolidated;

(iv) whenever a district loses more than 20% of the population of the entire school district to another district;

(v) whenever a district loses more than 50% of the population of a local school board district to another district;

(vi) whenever a district receives new residents equal to at least 20% of the population of the district at the time of the last reapportionment because of a transfer of territory from another district; and

(vii) whenever it is necessary to increase the membership of a board from five to seven members as a result of changes in student membership under Section 20A-14-202.

(b) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last reapportionment, the local school board may assign the new territory to one or more existing school board districts.

(3) (a) Reapportionment does not affect the right of any school board member to complete the term for which the member was elected.

(b) (i) After reapportionment, representation in a local school board district shall be determined as provided in Subsection (3).

(ii) If only one board member whose term extends beyond reapportionment lives within a reapportioned local school board district, that board member shall represent that local school board district.

(iii) (A) If two or more members whose terms extend beyond reapportionment live

within a reapportioned local school board district, the members involved shall select one member by lot to represent the local school board district.

(B) The other members shall serve at-large for the remainder of their terms.

(C) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(iv) If there is no board member living within a local school board district whose term extends beyond reapportionment, the seat shall be treated as vacant and filled as provided in this part.

(4) (a) If, before an election affected by reapportionment, the county or municipal legislative body that conducted the reapportionment determines that one or more members must be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the reapportioned local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

(5) Within ten days after any local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the Automated Geographic Reference Center created under Section 63F-1-506.

Section 3. Section **53A-2-104** is amended to read:

53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board petition -- Elector petition -- Transfer election.

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local board of education of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county~~[, or]~~.

~~[(d) voter approval of a proposal pursuant to Section 53A-2-118.1.]~~

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective boards as soon as reasonably possible.

(c) The boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local board shall appoint one member to a boundary review committee; or

(B) if the local board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the State Superintendent of Public Instruction shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local

boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local board accepts the recommendation of the committee, or accepts the recommendation after amendment by the boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local board rejects the recommendation, the affected boards may agree to extend the time for the committee to prepare an acceptable recommendation or either board may request the State Board of Education to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Section 4. Section **53A-2-105** is amended to read:

53A-2-105. Transfer of school property -- Indebtedness on transferred property.

(1) If a transfer of a portion of one school district to another school district is approved under Section 53A-2-104 [~~or 53A-2-118.1~~], the state superintendent and the superintendents and presidents of the boards of education of each of the affected school districts shall determine the basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.

(2) (a) Title to property transferred vests in the transferee board of education.

(b) The transfer of a school building that is in operation at the time of determination

shall be made at the close of a fiscal year.

(c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section 53A-2-104.

(3) (a) The individuals referred to in Subsection (1) shall determine the portion of bonded indebtedness and other indebtedness of the transferor board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor board.

(b) This is done by:

(i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor board of education;

(ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and

(iii) calculating the portion of the indebtedness of the transferor board for which the transferred portion retains liability.

(4) (a) The agreement reflecting these determinations takes effect upon being filed with the State Board of Education.

(b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor school board.

(c) The transferee school board may assume the obligation to pay the proportionate share of the transferor school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor school board's indebtedness, the transferee school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(6) If the transferee school board does not assume this obligation, the transferee school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section 53A-2-104.

Section 5. Section **53A-2-117** is amended to read:

53A-2-117. Definitions.

As used in Sections 53A-2-117 through 53A-2-121:

(1) "Existing district" or "existing school district" means a school district from which a new district is created.

(2) "New district" or "new school district" means a school district created under Section 53A-2-118[-] or 53A-2-118.1.

(3) "Remaining district" means an existing district after the creation of a new district.

Section 6. Section **53A-2-118** is amended to read:

**53A-2-118. Creation of new school district by county legislative body --
Initiation of process -- Procedures to be followed.**

(1) A county legislative body may create a new school district from an existing school district, as provided in this section, if the area of the new school district is within or, under Subsection 53A-2-118.1(2)(b)(ii), considered to be within the geographical boundaries of the county.

(2) (a) The process may be initiated:

(i) through a citizens' initiative petition;

(ii) at the request of the board of the existing district or districts to be affected by the

creation of the new district; or

(iii) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53A-2-118.1.

(b) (i) A petition submitted under Subsection (2)(a)(i) must be signed by qualified electors residing within the geographical boundaries of the proposed new school district equal in number to at least 15% of the number of electors in the area who voted for the office of governor at the last regular general election.

(ii) A request or petition submitted under Subsection (2)(a) shall:

(A) be filed with the county clerk;

(B) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(C) describe the proposed new school district boundaries; and

(D) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written withdrawal or reinstatement with the county clerk.

(d) The process under Subsection (2)(a)(i) may only be initiated once during any four-year period.

(e) A new district may not be formed pursuant to Subsection (2)(a) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(f) Within 45 days after the filing of a request or petition under Subsection (2)(a), the county clerk shall:

(i) determine whether the request or petition complies with Subsections (2)(a), (b), (d), and (e), as applicable; and

(ii) (A) if the county clerk determines that the request or petition complies with the

310 applicable requirements:

311 (I) certify the request or petition and deliver the certified request or petition to the
312 county legislative body; and

313 (II) mail or deliver written notification of the certification to the contact sponsor; or

314 (B) if the county clerk determines that the request or petition fails to comply with any
315 of the applicable requirements, reject the request or petition and notify the contact sponsor in
316 writing of the rejection and reasons for the rejection.

317 (g) If the county clerk fails to certify or reject a request or petition within 45 days after
318 its filing, the request or petition shall be considered to be certified.

319 (h) (i) If the county clerk rejects a request or petition, the request or petition may be
320 amended to correct the deficiencies for which it was rejected and then refiled.

321 (ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled
322 after having been rejected by a county clerk.

323 (i) If a county legislative body receives a request from a school board under Subsection
324 (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or
325 before December 1:

326 (i) the county legislative body shall appoint an ad hoc advisory committee, as provided
327 by Subsection (3), on or before January 1;

328 (ii) the ad hoc advisory committee shall submit its report and recommendations to the
329 county legislative body, as provided by Subsection (3), on or before July 1; and

330 (iii) if the county legislative body approves a proposal to create a new district, the
331 proposal shall be submitted to the county clerk to be voted on by the electors of the existing
332 district at the regular general or municipal general election held in November.

333 (3) (a) The county legislative body shall appoint an ad hoc advisory committee to
334 review and make recommendations on a request for the creation of a new school district
335 submitted under Subsection (2)(a)(i) or (ii).

336 (b) The advisory committee shall:

337 (i) seek input from:

- 338 (A) those requesting the creation of the new school district;
- 339 (B) the school board and school personnel of the existing school district;
- 340 (C) those citizens residing within the geographical boundaries of the existing school
- 341 district;
- 342 (D) the State Board of Education; and
- 343 (E) other interested parties;
- 344 (ii) review data and gather information on at least:
- 345 (A) the financial viability of the proposed new school district;
- 346 (B) the proposal's financial impact on the existing school district;
- 347 (C) the exact placement of school district boundaries; and
- 348 (D) the positive and negative effects of creating a new school district and whether the
- 349 positive effects outweigh the negative if a new school district were to be created; and
- 350 (iii) make a report to the county legislative body in a public meeting on the committee's
- 351 activities, together with a recommendation on whether to create a new school district.
- 352 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):
- 353 (a) The county legislative body shall provide for a 45-day public comment period on the
- 354 report and recommendation to begin on the day the report is given under Subsection (3)(b)(iii).
- 355 (b) Within 14 days after the end of the comment period, the county legislative body
- 356 shall vote on the creation of the proposed new school district.
- 357 (c) The proposal is approved if a majority of the members of the county legislative body
- 358 votes in favor of the proposal.
- 359 (d) If the proposal is approved, the county legislative body shall submit the proposal to
- 360 the county clerk to be voted on:
- 361 (i) by the legal voters of the existing school district;
- 362 (ii) in accordance with Title 20A, Election Code; and
- 363 (iii) at the next regular general election or municipal general election, whichever is first.
- 364 (e) Creation of the new school district shall occur if a majority of the electors within
- 365 both the proposed school district and the remaining school district voting on the proposal vote

in favor of the creation of the new district.

(f) The county legislative body shall provide notice of the action as required in Section 53A-2-101.5.

(g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection (2)(f) or (g), the county legislative body shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) ~~(i) [Creation of the new school district shall occur if]~~ If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the creation of the new district[-];

(A) the county legislative body shall, within 30 days after the canvass of the election, file with the lieutenant governor the written notice required under Section 53A-2-101.5; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (5)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the election at which voters approve creation of the new school district;

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

(C) the existing district shall continue, until the time specified in Subsection (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing

district as though the new district had not been created.

Section 7. Section **53A-2-118.1** is amended to read:

53A-2-118.1. Option for school district creation.

(1) After conducting a feasibility study, a city of the first or second class, as defined under Section 10-2-301, may by majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's boundaries, in accordance with Section 53A-2-118.

(2) (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.

(b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:

[(i)] (A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;

[(ii)] (B) the combined population within the proposed new school district boundaries meets the minimum population threshold for a city of the second class; and

[(iii)] (C) the new school district boundaries:

[(A)] (I) are contiguous;

[(B)] (II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of the existing school district, except as provided in Subsection (2)(d)(iii);

[(C)] (III) include the entire boundaries of [any] each participant city or town, except as provided in Subsection (2)(d)(ii); and

[(D)] (IV) subject to Subsection (2)(b)(ii), do not cross county lines.

(ii) For purposes of Subsection (2)(b)(i)(C)(IV) and Subsection 53A-2-118(1), a municipality located in more than one county is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the

municipality's land area and population is located in that same county than outside the county.

(c) (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(ii) Boundaries of a new school district created under this section may include a portion of the unincorporated area of the county, including a portion of a township.

(d) (i) As used in this Subsection (2)(d):

(A) "Isolated area" means an area that:

(I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

450 (III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the
451 municipality has not entered into an interlocal agreement as requested in the request.

452 (B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold
453 one or more public hearings to allow input from the public and affected school districts
454 regarding whether or not the municipality should enter into an interlocal agreement with respect
455 to the potential isolated area.

456 (C) (I) This Subsection (2)(d)(iii)(C) applies if:

457 (Aa) a new school district is created under this section after a measure is submitted to
458 voters based on the authority of Subsection (2)(d)(iii)(A); and

459 (Bb) the creation of the new school district results in an isolated area.

460 (II) The isolated area shall, on July 1 of the second calendar year following the election
461 at which voters approve the creation of a new school district, become part of the municipality's
462 school district.

463 (III) Unless the isolated area is the only remaining part of the existing district, the
464 process described in Subsection (4) shall be modified to:

465 (Aa) include a third transition team, appointed by the local school board of the
466 municipality's school district, to represent that school district;

467 (Bb) require allocation of the existing district's property among the new district, the
468 remaining district, and the municipality's school district;

469 (Cc) require each of the three transition teams to appoint one member to the
470 three-member arbitration panel, if an arbitration panel is established; and

471 (Dd) require the municipality's school district to bear 1/3 of the costs of arbitration.

472 (IV) The existing district shall continue to provide educational services to the isolated
473 area until July 1 of the second calendar year following the election at which voters approve the
474 creation of a new school district.

475 (3) (a) If a proposal under this section is approved by voters:

476 (i) an election shall be held on the June special election date, as provided in Section
477 20A-1-204, in the year following the election at which voters approved the creation of a new

478 school district, to elect:

479 (A) all members to the board of the new school district; and

480 (B) all members to the board of the remaining district;

481 ~~[(a) transfer of]~~ (ii) school district property ~~[and indebtedness to a newly created]~~ shall
482 be divided between the existing school district and the new school district ~~[shall be handled in~~
483 ~~accordance with Sections 53A-2-120 and 53A-2-121]~~ as provided in Subsection (4);

484 ~~[(b)]~~ (iii) transferred employees shall be treated in accordance with Sections 53A-2-116
485 and 53A-2-122; and

486 ~~[(c)]~~ (iv) within one year after ~~[creation of]~~ the new district begins providing
487 educational services, the superintendent of ~~[the previously existing]~~ each remaining district ~~[or~~
488 ~~districts]~~ affected and the superintendent of the new district shall meet, together with the
489 Superintendent of Public Instruction, to determine if further boundary changes should be
490 proposed in accordance with Section 53A-2-104 or Subsection 53A-2-118(2).

491 (b) Each member elected to a school district board of a new district and remaining
492 district at an election under Subsection (3)(a)(i) shall take office on July 15 immediately
493 following the election.

494 (c) (i) Subject to Subsection (3)(c)(ii), the terms of the initial members of the school
495 district board of the new district and remaining district who are elected at an election under
496 Subsection (3)(a)(i) shall be staggered and adjusted by the county legislative body so that:

497 (A) the school district board members' successors are elected at a future regular general
498 election; and

499 (B) the terms of their successors coincide with the schedule of terms for school district
500 board members established in Section 20A-14-202.

501 (ii) (A) The term of a member elected to a school district board at an election under
502 Subsection (3)(a)(i) may not be less than 17 months.

503 (B) In order to comply with the requirements of Subsection (3)(c)(i), the term of a
504 member elected to a school district board at an election under Subsection (3)(a)(i) held in an
505 even-numbered year may exceed four years but may not exceed five years.

(d) (i) The term of each member of the school district board of the existing district terminates on July 15 of the second year after the election at which voters approve the creation of a new district, regardless of when the term would otherwise have terminated.

(ii) Notwithstanding the election of a board for the new district and a board for the remaining district under Subsection (3)(a)(i), the board of the existing district shall continue, until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a board to the extent necessary to continue to provide educational services to the entire existing district as though the new district had not been created.

(iii) A person may simultaneously serve as a member of the board of an existing district and a member of the board of:

(A) a new district; or

(B) a remaining district.

(4) (a) Within 30 days after the canvass of an election at which voters approve the creation of a new school district under this section:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing district board who reside within the area of the remaining district, in consultation with:

(A) the legislative bodies of all municipalities in the area of the remaining district; and

(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local board of the existing school district shall:

(i) within 30 days after the canvass of an election at which voters approve the creation of a new school district under this section, prepare an inventory of the existing district's assets

534 and liabilities; and

535 (ii) within 45 days after the canvass, deliver a copy of the inventory to each of the
536 transition teams.

537 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to
538 Subsection (4)(c)(iii), determine the allocation of the existing district's property between the
539 remaining district and the new district in accordance with Subsection (4)(c)(ii).

540 (B) The transition teams shall determine the allocation under Subsection (4)(c)(i)(A)
541 before July 1 of the year following the election at which voters approve the creation of a new
542 district, unless that deadline is extended by the mutual agreement of:

543 (I) the school district board of the remaining district; and

544 (II) (Aa) the legislative body of the city in which the new district is located, for a new
545 district located entirely within a single city; or

546 (Bb) the legislative bodies of all interlocal agreement participants, for each other new
547 district.

548 (ii) Subject to Subsection (4)(c)(iii), all property of the existing district, both tangible
549 and intangible, real and personal, shall be allocated between the existing district and the new
550 district in a way that is fair and equitable to both the existing district and the new district, taking
551 into account:

552 (A) the relative student populations between the existing district and new district;

553 (B) the relative assessed value of taxable property between the existing district and the
554 new district;

555 (C) the historical amount of property used to deliver educational services to students in
556 the existing district and the new district; and

557 (D) any other factors that the transition teams consider relevant in dividing the property
558 in a fair and equitable manner.

559 (iii) (A) The transition teams shall allocate school buildings and associated property
560 used primarily to provide educational services to local residents and not serving district-wide
561 purposes to the school district in which the buildings are geographically located after the

562 creation of the new district.

563 (B) Except as provided in Subsection (4)(c)(iii)(A), nothing in this Subsection (4)(c)
564 may be construed to limit the ability of the transition teams to:

565 (I) provide that an existing district's property be shared by a remaining district and new
566 district;

567 (II) determine, by mutual agreement, that the value of the school buildings and
568 associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration
569 in the asset allocation process under this Subsection (4)(c); or

570 (III) provide for any other arrangement with respect to existing district property that is
571 beneficial to and in the best interests of the remaining district and new district.

572 (d) (i) Each disagreement between the transition teams about the proper allocation of
573 property between the districts shall be resolved by binding arbitration to a three-member
574 arbitration panel.

575 (ii) Each transition team shall appoint one member to an arbitration panel under this
576 Subsection (4)(d), and those two members shall appoint a third member.

577 (iii) The costs of arbitration shall initially be borne entirely by the existing district, but
578 the new district shall reimburse the existing district half of those costs within one year after the
579 new district begins providing educational services.

580 (e) Each decision of the transition teams and of the arbitration panel resolving a
581 disagreement between the transition teams is final and binding on the boards of the existing
582 district and new district.

583 (f) (i) All costs and expenses of the transition team that represents a remaining district
584 shall be borne by the remaining district.

585 (ii) All costs and expenses of the transition team that represents a new district shall:

586 (A) initially be borne by:

587 (I) the city whose legislative body appoints the transition team, if the transition team is
588 appointed by the legislative body of a single city; or

589 (II) the interlocal agreement participants, if the transition team is appointed by the

legislative bodies of interlocal agreement participants; and

(B) be reimbursed to the city or interlocal agreement participants by the new district within one year after the new district begins providing educational services.

Section 8. Section **53A-2-119** is amended to read:

53A-2-119. Reapportionment -- Local school board membership.

(1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.

(2) ~~[(a)]~~ Except as provided in ~~[Subsection (2)(b)]~~ Subsections (3) and 53A-2-118.1(3)(c), school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Nomination and Election of Members of Local Boards of Education.

(3) (a) Subsection (3)(b) does not apply to a new school district created under Section 53A-2-118.1.

(b) (i) If, as a result of a reapportionment conducted following the creation of a new school district, a local school board district is created in which no board member whose term extends beyond reapportionment resides, the first board member for the local school board district shall be elected at the next regular general election or municipal general election, whichever occurs first, after the election at which the creation of the new school district is approved.

(ii) (A) The initial term of office of a board member elected under Subsection ~~[(2)]~~ (3)(b)(i) shall be three years, except as provided in Subsection ~~[(2)]~~ (3)(b)(ii)(B).

(B) If more than one position on a local school board needs to be filled pursuant to Subsection ~~[(2)]~~ (3)(b)(i), the initial term of the board members elected shall be staggered. The county legislative body shall determine by lot which of the reapportioned local school board districts will elect members to three-year terms and which will elect members to one-year terms.

Section 9. Section **53A-2-120** is amended to read:

53A-2-120. Transfer of school property to new school district.

(1) (a) On ~~[the]~~ July 1 of the year following the school board elections for the new and

existing districts as provided in Section 53A-1-119, the board of the existing district shall convey and deliver to the board of the new district all school property which the new district is entitled to receive.

(b) (i) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(ii) Subsection (1)(b)(i) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53A-2-118.1(4).

(2) Title vests in the new school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

(4) (a) The intangible property of the existing school district shall be prorated between it and the new district on the same basis used to determine the new district's proportionate share of the existing district's indebtedness under Section 53A-2-121.

(b) Subsection (4)(a) does not apply to the allocation of intangible property between a remaining district and a new district created under Section 53A-2-118.1.

Section 10. Section **53A-2-121** is amended to read:

53A-2-121. Indebtedness on property within new school district.

(1) (a) The boards of the [~~existing~~] remaining and new districts shall determine the portion of the existing district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the existing district's outstanding indebtedness.

(b) The proportionate share of the existing district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the existing district in the year immediately preceding the date the new district was created.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the State Board of Education.

(2) The board of the ~~[new]~~ remaining district shall continue to levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under this section, and shall ~~[turn-over]~~ annually report the amount of the proceeds of the tax to the business administrator of the ~~[existing]~~ new district.

(3) (a) The boards of the ~~[existing]~~ remaining and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the existing district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

(b) Before a determination is made under Subsection (3)(a), a remaining district may not issue bonds approved but not issued before the creation of the new district if property in the new district would be subject to the levy of a tax to pay the bonds.

Section 11. Section **53A-3-409** is amended to read:

53A-3-409. Local governmental entities and school districts -- Contracts and cooperation -- Disbursement of funds -- Mayor or designee participation in school district board meetings -- Notice required.

(1) Local governmental entities and school districts may contract and cooperate with one another in matters affecting the health, welfare, and convenience of the inhabitants within their respective territorial limits.

(2) A local governmental entity may disburse public funds in aid of a school district located wholly or partially within the limits of its jurisdiction.

(3) (a) A mayor or the mayor's designee of a municipality that is partly or entirely within the boundaries of a school district may attend and participate in the board discussions at the school district's board meetings.

(b) Each local school board shall give notice of board meetings to the mayor or the mayor's designee of each municipality that is partly or entirely within the school district's boundaries.

Section 12. **Political Subdivisions Interim Committee study items for 2007 interim.**

(1) The Political Subdivisions Interim Committee is directed to study the following issues during the 2007 interim:

(a) whether all voters in the existing district should be involved in the decision to create a new district, since all portions of an existing school district will be affected by the creation of a new school district;

(b) whether a feasibility study should be required for each district that results from the creation of a new district rather than just for the new district;

(c) whether the issue of school building equalization for the districts that result from the creation of a new district should be addressed to ensure that growing areas do not carry a tax burden not shared by those in other areas of the original district and to avoid the possibility of lawsuits that might arise because of the disparate tax burdens; and

(d) whether any existing district should be required to divide into two or more districts when it reaches a certain size.

(2) The Political Subdivisions Interim Committee is authorized to establish a subcommittee for the purpose of conducting the study under Subsection (1).